



Nepal

Country Reports on Human Rights Practices - [2004](#)

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Nepal is a constitutional monarchy with a parliamentary form of government. A Maoist insurgency, punctuated by ceasefires in 2001 and 2003, has been ongoing since 1996. King Gyanendra assumed the throne in 2001. The democratically elected parliament consists of the House of Representatives (lower house) and the National Assembly (upper house). International observers considered the 1999 parliamentary elections to be generally free and fair. The then-Prime Minister dissolved the parliament in 2002, and the term of parliament subsequently expired. The ongoing insurgency subsequently prevented new elections. On June 2, the King reinstated Sher Bahadur Deuba as Prime Minister. The Constitution provides for an independent judiciary; however, the courts often were inefficient and susceptible to political pressure and corruption.

The Royal Nepalese Army (RNA) continued to exercise responsibility for security in the country under an operational structure referred to as the "unified command," which included elements of the Nepal Police and the Armed Police Force (APF). Local Chief District Officers (CDOs), civil servants in the Home Ministry, have wide discretion in maintaining law and order. While the King, as Army Supreme Commander, maintained ultimate control of the Royal Nepalese Army, there is no evidence that he exercised direct operational control of the Army. Civilian authorities maintained effective control of the National Police and Armed Police Force. Members of the security forces committed numerous, serious human rights abuses.

The country is extremely poor, with an annual per capita GDP of approximately \$276 (20,474 Nrs) and a 3.7 percent growth rate during the year. Subsistence agriculture supported more than 80 percent of the country's 24.1 million population. Wages and benefits did not keep pace with inflation. The mixed economy suffered due to slow growth in the world economy and the insurgency, which resulted in a decline in revenues from tourism and from exports of textiles and carpets.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. The citizens' right to change the Government was provided for by the Constitution; however, the ongoing insurgency has prevented the holding of elections. Since the dismissal of the elected government in 2002, the King has appointed three interim governments, but parliament has not been reestablished. The security forces used arbitrary and unlawful lethal force and continued to abuse detainees, sometimes using torture as punishment or to extract confessions. The disappearance of persons in custody was a serious problem. Prison conditions remained poor. Impunity remained a problem, although the military investigated some claims of abuses and found several soldiers guilty under court martial. The National Human Rights Commission (NHRC) investigated allegations of human rights violations and, while the Government has begun to pay compensation to some victims, recommended disciplinary action against police seldom occurred. Arbitrary arrest and lengthy pretrial detention were problems. Judicial susceptibility to political pressure, fear of retribution, corruption, and long delays in trial procedures remained problems. Media criticism of the Government was allowed, so long as it did not aid terrorism or directly criticize the King. The Government restricted public celebrations by the Tibetan community. The Constitution imposes restrictions on religious proselytizing. Women, persons with disabilities, and lower castes suffered from widespread discrimination. Violence against women, trafficking in women and girls for prostitution, and child labor also remained serious problems. Worker rights continued to be restricted.

During the year, Maoists continued their campaign of torturing, killing, bombing, forcibly conscripting children, extorting, forcing closures of schools and businesses, and committing other serious and gross human rights abuses. Maoist impunity remained a significant problem. During the year, an estimated 2,380 persons were killed in insurgency-related violence, including 156 members of the national police; 240 members of the Royal Nepalese Army; 53 members of the Armed Police Force; 1,457 Maoists; and 474 civilians, including 12 government officials. Maoist actions limited press freedom and the right of assembly, negatively impacted religious communities, prevented free movement, limited citizens' ability to change their government, and prevented hundreds of thousands of children from receiving education. Since the beginning of the insurgency, the Maoists have not credibly investigated any human rights abuses committed by their forces, despite their claims to respect and uphold international conventions on human rights.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings by the Government or its agents; however, the security forces continued to commit arbitrary and unlawful killings. Some observers found the number of prisoners taken under battlefield conditions to be low and concluded that many Maoist fighters apparently were killed rather than taken prisoner. According to statistics from the press and human rights groups, security forces killed 1,354 suspected Maoists during the year. Observers argued that security forces frequently broke their own rules of engagement by shooting at unarmed fleeing suspects. For example, on May 16, Rajendra Paneru was shot and killed while trying to escape security forces in Gorkha. On March 17, security personnel shot and killed mentally handicapped Ganesh Syangtang of Hetauda when he attempted to flee. The District CDO agreed to investigate the latter case, but there were no developments at year's end.

RNA soldiers were responsible for a number of killings, including deaths in custody in which torture was credibly alleged (see Section 1.c.). During the year, the RNA's human rights investigative cell conducted 9 new investigations. In most cases of arbitrary or unlawful killings, the security forces claimed that the victims were Maoists.

On January 11, members of a joint RNA/APF patrol in Manpur Tapara, Bardia District, killed father and son Bhoj Bahadur Karki and Top Bahadur Karki. A subsequent investigation by the RNA determined that a soldier of the Joint Security Patrolling Group had acted unlawfully. The soldier was sentenced to 7 years' imprisonment under general court martial. An Armed Police Force officer also was demoted in rank as a result of the incident.

During a raid in Ward 4 Handikhola VDC in Makwanpur District on February 5, 14 Maoists and 2 civilians (a 31-year-old man and an 80-year-old woman) were killed. Locals accused the RNA soldiers of capturing and then executing two of the Maoists, and of using excessive force against the local population. An investigation was ongoing at year's end.

On February 12 and 13, in Pokharichauri, Kavre District, RNA soldiers killed 17-year-old Subhadra Chaulagain and 18-year-old Reena Rasaili while they reportedly were attempting to flee custody. It was alleged that the girls, accused by the RNA of being Maoists, were captured, beaten, and raped. On February 17, RNA soldiers took Maina Sunuwar from her home in Kavrethok, Kavre District, and presumably killed her. An RNA investigation into these cases was ongoing at year's end.

According to Human Rights Watch, in mid-February in Raghunathpur of Rautahat District, Kishori Patel Kurmi and Suresh Raut Patel were summarily executed after being wounded by a group of soldiers who, according to locals, were dressed as Maoists. Villagers protested the killings in the district headquarters and compensation was promised. No action was taken by year's end.

The RNA reopened the investigation into the 2003 killing of at least 19 Maoists in the Ramechhap District. In March, an RNA commander was charged with two counts of "failing to protect detainees leading to violation of their human rights, and misreporting to army headquarters." While the preliminary RNA report had denied any extrajudicial killings, the latest RNA report revealed that "some of the unarmed rebels were killed after their capture even as a few of them were killed in separate encounters at different areas in Ramechhap district." On March 11, the RNA announced that the RNA major in command of the company in question would face a court-martial.

The RNA was investigating the October 2003 death of Govinda Poudel, a Maoist suspect who died in the hospital after allegedly being tortured in custody.

During the year, an RNA court martial prosecuted soldiers accused of involvement in the death of Maya Devi Tamang in December 2003. One soldier was sentenced to 18 months imprisonment and discharged from service; one soldier was given an official warning; one soldier was demoted; and the officer in charge was suspended from the opportunity for promotion for 13 months. The RNA has recommended to the Government that the family of the victim be compensated.

A corporal and a warrant officer were discharged from the army and sentenced to two years in jail for the 2003 killings of Hari Prasad Bhattarai, Durga Koirala, and Dakmani Koirala. The RNA also discharged the officer in charge of the unit from service.

There were no developments in the 2003 killings of Raj Dev Yadav and Brahma Dev Yadav.

In 2003, the Government agreed to provide compensation to a number of victims' families for wrongful killings. For example, the Government paid Devi Lal Poudel's parents approximately \$6,700 (500,000 Nrs) as compensation for the police killing in April 2003 of Poudel, a student participating in a violent protest in Rupandehi District against petroleum price hikes.

In September 2003, a judge in Kathmandu District Court ordered the Government to pay approximately \$1,340 (100,000 Nrs) to the family of Ganesh Kukmar Rai. Despite the court order, the Government had not paid the compensation at year's end.

In October 2003, soldiers opened fire at a secondary school in Mudhbara, Doti District, where armed Maoists were forcing students and teachers to attend a cultural program. Soldiers killed one Maoist and four students. An RNA investigation exonerated the soldiers involved of wrongdoing, but recommended that the victims' families be paid \$2,680 (200,000 Nrs) each. No action had been taken at year's end.

In November 2003, a taxi accidentally hit an RNA school bus in Kathmandu. A soldier on the bus, thinking the bus was under attack, shot and killed Rajiv Shrestha, the taxi driver. Following an investigation and court martial, the soldier was convicted of

using excessive force and charged with 4 months' imprisonment and discharged from service. The RNA court of inquiry recommended to the Home Ministry that compensation be provided to Shrestha's family. The Government paid \$2,680 (200,000 Nrs) in compensation.

In December 2003, police shot and killed Suresh Baral in Pokhara, Kaski District, as he approached a checkpoint on motorcycle at night. The Government paid Baral's family \$1,340 (100,000 Nrs) as compensation for his death.

There were no developments in the 2002 killings of Ajabwal Yadav, Sakur Manihar, Krishna Sen, or Ram Hari Khadga.

There were numerous killings by unknown actors. For example, Communist Party of Nepal – United Marxist Leninist Party parliamentarian Hem Narayan Yadav from Siraha was killed on February 2 in Danusha District. Yadav's body was found covered by a Maoist flag with Maoist materials nearby. Several investigations into Yadav's death pointed to the RNA, although the RNA denied involvement.

Maoist rebels clashed with security forces repeatedly during the year and engaged in targeted killing of individual members of the security forces, government officials, and civilians. For example, on July 30, the rebels abducted, tortured, and killed an unarmed RNA soldier in Kaski District. On August 4, rebels shot and killed a police officer in Jhapa District after abducting him several days earlier. On August 6, the rebels abducted and then killed an RNA soldier in Dhankuta District. On August 9, the Maoists also killed two security personnel after abducting them in Kapilbastu District.

The Maoists continued to kill and torture politicians, civilians, and journalists. The insurgents killed 409 civilians during the year. For example, on January 15, Maoists killed the Mayor of Birgunj (and journalist) Gopal Giri; on July 2, Maoists killed the Mayor of Pokhara, Harka Bahadur Gurung; and on July 12, they killed the Mayor of Dhangadhi Municipality, Dhan Bahadur Bam. Similarly, on August 3, the Maoists abducted the former mayor of Bardiya District from his relative's funeral procession, cut off his limbs and head, and threw his body on the burning pyre.

On July 19, the Maoists killed a wheelchair-bound man in Morang district. On July 31, the Maoists beat to death a teacher in the mid-western district of Dailekh. The Maoists abducted Til Bahadur Limbu on August 12 and killed him on August 18. Limbu was a Nepal Red Cross volunteer and had previously served as the Mahamai Village Development Committee Chairman.

On February 15, Maoists killed Ganesh Chiluwal, Head of the Maoist Victims Association, a local NGO representing survivors of Maoist terror, at the offices of his association in Kathmandu.

On August 11, the Maoists killed Dekendra Raj Thapa, a reporter for the state-owned Radio Nepal and also an advisor to the Human Rights and Peace Society (HURPES), a local human rights nongovernmental organization (NGO), in the mid-western district of Dailekh. Maoists killed him after detaining him for more than a month for allegedly spying for the security forces.

On September 1, a mob enraged by the death of 12 citizen workers in Iraq at the hands of Iraqi militants attacked manpower agencies, mosques, Middle Eastern airline companies, and press houses in several cities in the country (see Section 2.c.). Significant property damage occurred and seven persons lost their lives in the violence. In response to the mob actions, the Government imposed a curfew for several days. Most observers were critical of the slow speed with which the Government responded to the violence. Police arrested more than 50 persons for participating in the riots.

b. Disappearance

The disappearance of persons while in the custody of security forces was a significant problem. The 2002 Terrorist and Destructive Activities Act (TADA), which codified some aspects of the Royal Ordinance declared during the state of emergency in 2001, authorized extended preventative detention. In some cases, individuals disappeared, and their whereabouts remained unknown until much later when the Government acknowledged the individuals were detained under the TADA. According to the Informal Sector Service Center (INSEC), a local human rights NGO, since the beginning of the insurgency in 1996, there have been 17,963 cases of disappearances, 1,354 by the state and 16,609 by the insurgents. There have been no prosecutions of government officials or Maoists for their involvement in disappearances. Since the 1997 establishment of the NHRC, the Commission has registered 1,340 cases of disappearance. On July 1, the Government formed a five-member committee (including a Joint Secretary at the Home Ministry, a Deputy Inspector General of Police, a Deputy Inspector General of the Armed Police Force, and a Deputy Chief Officer of the National Investigation Department) to investigate disappearance claims. On August 11, the committee announced it had looked into 36 disappearance cases and had identified the location of 24 of the 36 missing. In response to public complaints that the panel's efforts were insufficient, the Government extended the tenure of the committee. By the end of the year, the committee had identified the location of 320 missing individuals. The Government subsequently extended the tenure of the committee into 2005.

On September 17, the Government opened a detention facility at Sundarijal in the Kathmandu Valley to house detained suspected Maoists while they were being interrogated. Family members, lawyers, and human rights groups were given access to the facility, but access was limited and in some instances, denied.

According to the NHRC, more than 1,200 persons remained disappeared since the beginning of the insurgency. INSEC reports

that the whereabouts of 177 persons in government custody since the beginning of the insurgency remained unknown at year's end. On May 9, security forces in Balaju, Kathmandu, arrested Hari Krishna Adhikari, the headmaster of Puspa Lal Memorial Primary School in Nuwakot; his whereabouts remained unknown.

Som Bahadur Ghale Tamang, General Secretary of the Tamang Indigenous People's Organization, and Bishnu Prasad Gyawali, who had been arrested in 2002, were subsequently released later that year.

The disappearance of persons at the hands of the Maoists was a significant problem. INSEC reported that Maoists abducted 665 persons during the year and that 384 civilians remained missing since the beginning of the insurgency. At year's end, 12 members of the national police, 13 members of the APF, and 6 soldiers remained missing after being abducted by Maoists. Police statistics indicated that Maoists have abducted 420 policemen since 1996; 382 were later released, 29 were killed and 12 remained missing.

During the year, Maoists significantly expanded a campaign of abducting civilians, primarily students and teachers, for indoctrination programs and forced paramilitary training. In January and February, approximately 700 children were abducted. Additionally, Maoist-enforced education closures in the western part of the country affected more than 700,000 students and 51,000 employees from 5,000 private and public schools, according to the Western Regional Coordination Committee of the Private and Boarding Schools Organization Nepal.

In December, Maoists kidnapped Jhapa district court judge Tanka Bahadur Moktan, who was subsequently released after 3 days.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, and the Civil Code prohibits acts such as beating and mutilation; however, security forces at times used torture and beatings to punish suspects or to extract confessions. The Center for the Victims of Torture (CVICT) reported that blindfolding and beating soles of feet were the most common methods. Detainees were often held incommunicado and unable to contact family members, doctors, or lawyers (see Section 1.d.). The Government sometimes failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against those involved.

Members of the security forces often were unwilling to investigate and to discipline fellow officers, and persons were afraid to bring cases against police or army for fear of reprisals. The Government provided human rights education for police, and soldiers received human rights education as part of their regular training.

The Constitution and the Torture Compensation Act provide for compensation for victims of torture, and during the year, three victims were awarded compensation. According to CVICT, 5 persons filed for compensation under the act during the year, compared with 57 claims in 2003 and 7 claims during 2002. CVICT attributed the rise in claims in 2003 to victims' greater willingness to report such incidents during the ceasefire.

A human rights group reported that on June 18 security forces tortured Subid Guragain, Editor of Rajdhani Daily and Vice President of Nepal Journalist Union Sunsari Branch, in front of the Inurwa District Police Office. Thereafter, he was brought to the unified command barracks in Inurwa and was abused and beaten by soldiers. After a rally organized by the Federation of Nepalese Journalists, the RNA publicly apologized for the mistreatment.

In April, six police officers physically abused two Tibetan refugee girls in Lukla (the girls were traveling with 53 other refugees). The girls were beaten with a stick, told to open their clothes, and groped. The refugees were also robbed of \$1,300 (96,200 Nrs) and other valuables. According to an APF investigation, civilian police carried out the abuse, and APF informed civilian police authorities. No further information on this case was available by year's end.

On November 10, six RNA soldiers allegedly raped a 16-year-old girl in Sunsari District, and reportedly threatened her life if she reported the crime. The RNA turned the six soldiers over to the civilian district court in Inarwa on December 31 after the soldiers reportedly admitted their involvement to the police investigating the case.

At year's end, the court case against two former APF police officers charged in December 2003 rape of a 16-year-old girl in Baijapur, Banke District was still underway.

According to CVICT, in October 2003, the Sunsari District Court awarded Ram Bahadur B.K. approximately \$135 (10,000 Nrs) in his 2002 torture case. The Sunsari District Court, and subsequently the Biratnagar Appellate Court, in December 2003 ruled that Krishna Lohani B.K. was not entitled to compensation in her 2002 torture case. There was no new information available concerning Chetkara Adhikari's 2002 torture complaint filed with the Alliance for Human Rights and Social Justice.

There were no updates by year's end in the 2003 torture cases of Manoj Lama, Abdeshe Singh, and Kumar Lama, who had been held incommunicado and tortured at the Hanumandhoka District Police Office in Kathmandu. There were also no updates in the cases of suspected criminals Deepak Laya Magar, Ram Kumar Karki, and Jai Ram Bhandari, who were subjected to torture at the

same facility.

On April 18, Maoists abducted a 65-year-old woman in Nuwakot District, accusing her of being a spy for security forces. The rebels bombed her house before leaving, completely destroying it, but released her 5 days later.

On June 22, Maoists hammered the legs of eight Dalits (formerly known as untouchables in the caste system) in the far-western district of Achham. Locals were warned by the Maoists not to provide any medical assistance to the Dalits.

Maoists used torture as a means to prevent peaceful political protests against their party. For example, on November 29, Maoists attacked a number of People's Front Nepal (PFN) party workers in Baglung District, in one case drilling holes into the legs and hands of the PFN Vice Chairman's wife Rupa Thapa with a hand-drill. On December 3, the Maoists drilled holes in the feet and broke both legs of PFN party worker Bhabilal Chantyal of Damek, Baglung.

Maoist insurgents used landmines that killed and injured security forces and civilians (see Section 1.g.).

Prison conditions were poor and did not meet international standards. Overcrowding was common. According to the Department of Prisons, of the 6,393 persons in jail, 3,024 had been convicted of a crime and 3,369 were awaiting trial. Women normally were incarcerated separately from men, and in similar conditions.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults as criminal offenders or allowed to remain in jails with their incarcerated parents for lack of other available options (see Section 4). In November 2001, the Government began transferring children detained in jail to two residential facilities that provide education in accord with a provision in the 1992 Children's Act, but this has not completely ended the practice of incarcerating children with adults.

The Government permitted local human rights groups and the International Committee of the Red Cross (ICRC) to visit prisons. In some cases, the Government asked NGOs to visit prisons to provide health and counseling services. The ICRC had inconsistent access to detainees in army custody.

d. Arbitrary Arrest or Detention

The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest; however, the police at times violated this provision. Under the law, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the security forces occasionally held prisoners longer. In some cases, the Supreme Court ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, reported difficulty in obtaining bail.

Detainees not held under special antiterrorist legislation have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice, the police granted access to prisoners on a basis that varied from prison to prison; however, Maoist suspects often were denied visits from family members and lawyers. There is a system of bail, but bonds were too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pretrial detention often exceeded the period to which persons subsequently were sentenced after a trial and conviction. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture were especially evident in heavily Maoist-affected areas.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. Persons whom the Government detained under the Act were considered to be in preventive detention and could be held for up to 6 months without being charged with a crime. The authorities may extend periods of detention after submitting written notices to the Home Ministry. The security forces must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges. This act was commonly applied in cases involving suspected Maoists because of the limited number of appellate courts available that process TADA charges and the difficulty in transporting detainees to these courts. Human rights groups alleged that the security forces have used arbitrary arrest and detention during the "People's War" to intimidate communities considered sympathetic to the Maoists.

Between April and June, observers estimated that over 1,000 political protestors, including political leaders, were arrested under the Public Security Act after the Kathmandu District Administration prohibited public gatherings. Most were released within 24 hours of their arrest.

Under the TADA, suspects must appear before a court within 60 days of their arrest. On October 13, the TADA was renewed and amended to extend the maximum period of preventive detention from 90 days to 360 days. According to police statistics, 21,470 suspected Maoists have been arrested since the beginning of the insurgency (some may have been repeat arrests). Of that number, 13,867 were released after investigation, 7,176 were charged or prosecuted, and 424 remained under investigation. Government sources estimated that approximately 1,800 Maoist suspects, including 5 Central Committee

members, were released without judicial process during the 2003 ceasefire. There were no recorded cases of prosecutors bringing Maoist suspects to trial during the year. During 2003, at least 24 cases involving Maoist suspects were sent to trial in Appellate Courts, which share jurisdiction in terrorist cases with Special Tribunals. All of the trials were still ongoing at year's end. Figures for the number of persons being detained by the Army on suspicion of being Maoists were unavailable by year's end.

Other laws, including the Public Offenses Act, permit arbitrary detention. This act and its many amendments cover crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO, the highest-ranking civil servant in each of the country's 75 districts. The Act authorized the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Many citizens involved in public disturbances, rioting, and vandalism were summarily arrested, detained for short periods (sometimes a few hours), and released.

Authorities detained journalists on occasion, on suspicion of having ties to or sympathy for the Maoists (see Section 2.a.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, courts remained vulnerable to political pressure, and bribery of judges and court staff was endemic. The Supreme Court has the right to review the constitutionality of legislation passed by parliament.

Appellate and district courts have become increasingly independent, although sometimes they remained susceptible to political pressures. For example, in Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDOs in violating detainees' rights.

The judicial system consists of three levels: District Courts, Appellate Courts, and the Supreme Court. The King appoints judges on the recommendation of the Judicial Council, a constitutional body chaired by the Chief Justice. The Council also is responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system. A Special Court hears cases related to narcotics trafficking, trafficking in women and girls, crimes against the state, corruption, and crimes related to foreign currency. The Appellate Courts hear cases against suspects charged with violations under the TADA.

Delays in the administration of justice were a severe problem. According to the latest statistics, the Supreme Court had a backlog of 17,781 cases; the Appellate Courts had 10,031; and district courts had 27,578. By year's end, at least 24 suspected Maoists arrested under special antiterrorism laws awaited trial in the Appellate Courts.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, except in some security and customs cases. These rights were not equally applied. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last resort, but the King may grant pardons. The King also can suspend, commute, or remit any sentence.

Although prisoners have a constitutional right to legal representation and a court appointed lawyer, a government lawyer or access to private attorneys is provided only on request. Consequently, those persons unaware of their rights may be deprived of legal representation. Suspects detained under the TADA often were denied access to both attorneys and family members.

There were instances of penalization of attorneys involved in the defense of human rights. On February 18, security forces arrested lawyer and journalist Dhananjay Khanal of Gorkhaland Monthly and Tanahun publications at his home in Lalitpur for unknown reasons. However, it is believed that he was arrested for providing legal services to those detained under the TADA Act. Khanal was released 3 days later. According to the Nepal Bar Association, two lawyers, Sujindra Maharjan and Rajendra Dhakal, remained in government custody at year's end. The reason for their detention was not clear.

Military courts adjudicate cases concerning military personnel under the military code, which provides military personnel the same basic rights as civilians. Military personnel are immune from prosecution in civilian courts. Military courts cannot try civilians for crimes, even crimes involving the military services; these cases are handled in civilian courts.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions. No such trials have occurred during the past 7 years.

The TADA law allows for terrorism cases to be prosecuted in a Special Court, although thus far terrorism cases have only been heard in the Appellate Courts. In either case, suspects may appeal verdicts to the Supreme Court.

In districts where Maoists have gained some measure of administrative control, the insurgents have set up "people's courts." These courts generally decide civil cases; however, in August, Dekendra Raj Thapa, a journalist and human rights activist, was sentenced by a "people's court" before being summarily executed (see section 1.a.).

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions and the Government generally observed these prohibitions. Search warrants are required before searches and seizures may be carried out, except in cases involving suspected security and narcotics violations. The law empowers the police to issue warrants for searches and seizures in criminal cases upon receipt of information about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Judges must approve them in felony cases. Under the TADA, the security forces may conduct searches as long as they inform the subject of the search in advance. Vehicle and body searches by security personnel have been common at roadblocks in many areas of the country.

There were no reports of the Government forcing civilians to resettle. However, the Maoists regularly forced family members of those serving in the police or army to flee their homes. For example, on July 15, Maoists forced 13 families to leave their homes within 24 hours in the district of Bardiya. Similarly, in Nuwakot district, Maoists forced six families to vacate their houses on July 22, demanding that the villagers bring back any family members serving in the security forces. Maoist recruitment threats also forced many citizens to flee. For example, on September 8, nearly 200 persons from Birat Village in Jumla District fled to Mugu District to avoid forced conscription. In 2003, according to an INSEC report, 38,000 persons fled their villages out of fear. Maoists repeatedly targeted the relatives of security personnel.

On March 12, Maoists in Kaski District demanded the resignations of all personnel involved in organizing the civic reception for the King's visit to Pokhara. The Maoists warned those who failed to comply that they would be expelled from the country and have their property confiscated, and as a result, many of the personnel resigned their positions.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts

During the year, there was a significant internal conflict between the Government and Maoist insurgents. Both sides to the conflict killed numerous civilians.

For example, on January 5, RNA soldiers returning fire at Maoists shot and killed 82-year-old Chandra Bahadur Praja in Kaule village in Chitwan District.

In April, 4 persons were killed and 15 injured when the army carried out an air raid on Vidya Mandir Higher Secondary School at Binayak VDC in Achham. The army claimed to have been fired upon by Maoists on school grounds.

On July 13, RNA soldiers staged a sting operation in Kathmandu to catch a suspected Maoist attempting to extort money from Ullash Vaidya, an official from the Nepal Electric Authority. With security personnel watching, Vaidya gave money to the suspect, at which time security forces began firing. Both men were killed.

On August 29, Maoists firing at security forces hit and injured a 2-year-old Indian child across the border bridge in Jhulaghat of Baitadi District.

Local and international human rights groups have documented Maoist violence in areas affected by the "People's War." The Maoists most often have targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers (see Section 1.a).

Maoists engaged in regular abduction of thousands of school children throughout the country. In June, for example, Maoists abducted more than 7,000 children for indoctrination and for service to the Maoist cadres.

According to the Government, human rights groups, and the media, Maoists conscripted civilians, including children, into service and have used abducted civilians as human shields during attacks on army and police posts (see Section 5).

On July 18, Maoists abducted 50 students and 12 teachers from a school within the Kathmandu Valley for a 3-day military training course. All of the students and teachers were released unharmed on July 20. In early September, the Maoists abducted over 1,000 persons in Syangja and Taplejung Districts for indoctrination, and another 2,000 in Dadeldhura for military training.

The ICRC was able on some occasions to convince the Maoists to release captured and detained individuals into ICRC custody. For example, on April 6, Maoists handed over 37 hostages to the ICRC.

The RNA used landmines to protect installations and infrastructure. There were no reports during the year of injuries or deaths from these landmines.

The Maoists used landmines in and alongside roads to attack police, military, and government vehicles. On June 14, a landmine set by Maoists in Khairekhola killed 21 police. On June 20, a landmine was used to attack a police vehicle in Dhankhola, after

which Maoists opened fire with rifles. The police vehicle and a civilian bus were repeatedly hit; 14 police and 4 civilians were killed (including a 2-year-old child), and 13 police and 14 civilians (including a 3-year-old child) were wounded. According to INSEC, during May and June, improvised explosive devices used by the Maoists killed seven children and injured seven others.

The Government allowed the free movement of relief organizations. The Maoists regularly blocked relief organizations from reaching civilian populations to force NGOs to sign agreements with their regional committees. For example, as a result of Maoist actions, the U.N. stopped all operations in Dhadeldhura District in September.

There were reports during the year of military commanders and Maoists blockading shipments of food and medicine. For example, the RNA blocked food and medical supplies from reaching more than 20 villages in Accham District for a week in April. Maoists announced the blockades of several areas, including a blockade of the Kathmandu Valley and numerous blockades in western districts. One NGO reported that Maoists in Udayapur had seized 35 baskets of medicine and medical equipment, including measles vaccines, in September. On September 21, Maoists bombed a health post and destroyed a district's vaccine supply for a measles campaign.

Maoists regularly extorted money from businesses and workers, as well as NGOs. When individuals or companies refused to or were unable to pay, Maoist recrimination was almost always violent. For example, on June 28, Maoists detonated an improvised explosive device in the offices of an NGO working to support the rights of freed bonded laborers. The NGO had refused to meet Maoist extortion demands.

Maoists regularly abducted large numbers of students and other children for indoctrination programs. Maoists used civilians, including children, as human shields in wave attacks against fortified military positions. Both sides in the conflict used children as informants (see Section 5). Frequent Maoist-declared closures involving the stoppage of work in all economic sectors, including transportation, were enforced through violence and caused particular hardship to some. For example, during a multiple-week closure in early March in the Gandaki zone, Maoists took possession of the only ambulance in Salyan to enforce observation of the strike.

There were no reports of the Government forcing civilians to resettle. However, the Maoists regularly forced family members of those serving in the police or army as well as thousands of civilians to flee their homes (see Section 1.f.).

Section 2 Respect For Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material; however, the Government imposed restrictions on these rights. The Constitution prohibits speech and writing that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality. The Maoists imposed restrictions on free press through intimidation and the killing of journalists.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The Act also includes penalties for violating these requirements. In addition, the Act prohibits publication of material that, among other things, promotes disrespect toward the King or the royal family; undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; creates animosity among persons of different castes and religions; or adversely affects the good conduct or morality of the public. There were no reports of prosecutions under the Act during the year. The Act also provides a basis for banning foreign publications; however, foreign publications were widely available. None were banned or censored during the year. Foreign media operating in and reporting on the country were allowed to operate freely.

The independent media were active and expressed a wide variety of views without restriction. There were hundreds of independent vernacular and English-language newspapers available, representing various political points of view. The Government owned Gorkhapatra, a Nepali-language daily, and The Rising Nepal, the third-largest English-language daily. Government newspapers reflected government policy. Journalists reported without significant self-censorship, despite a pervasive culture of fear due to the insurgency. Ruling political parties have influenced the editorial policy of government newspapers to their advantage.

The Broadcast Act allows private television and FM radio broadcast. The Government owned two television stations (Nepal TV and Nepal TV Metro), and controlled one radio station that broadcasts both AM and FM signals. Radio reached more than 90 percent of the population. Privately owned FM stations can broadcast their own independently collected news but also must broadcast Radio Nepal news at least once daily. The Government did not restrict access to foreign radio broadcasts, private cable networks, or the purchase of television satellite dishes. Indian, Chinese, and Pakistani broadcast television also was readily available in many parts of the country.

There were five licensed private television stations in the country, but two had yet to begin transmission. In addition to entertainment programming, commentary critical of government policies occurred during publicly broadcast discussion programs. Moreover, debates, commentaries, and roundtable discussion on contemporary issues, including government policy,

have become common. Throughout the country, local entrepreneurs also received international stations via satellite for viewing in local bars and resold the signal to local residents. Consequently, international broadcasts were more widely available. Television time on the government-owned television station also was leased to private producers.

A number of journalists encountered problems during the year. According to the Center for Human Rights and Democratic Studies (CEHURDES) and the Federation of Nepalese Journalists (FNJ), at least 25 journalists had been displaced by the conflict in the 6 months following October 2003. On February 1, Drishti Weekly journalist Suroj Adhikari claimed that he was severely beaten by police during a demonstration in Kathmandu. On April 30, security personnel detained more than 40 Radio Nepal staff for several hours in their offices without giving cause. They had been broadcasting a radio program on trade unions at the time of their detention.

On January 4, security forces arrested Visha Jagaran Daily's Rabindra Shah, and held him for 24 hours while they demanded information on an article he had written. On January 12, police arrested Kamal Tamang of Jana Aastha weekly for unknown reasons in Lalitpur, although he was subsequently released.

According to the Federation of Nepalese Journalists, 13 journalists have been killed since 1996, and 10 journalists were arrested during the year. Five journalists, including two arrested in 2003, remained missing at year's end. Three of the missing journalists are believed to be in state custody, two in Maoist custody.

The Government licensed 22 companies for Internet and e-mail services and did not censor or block access to Internet sites, except for the Communist Party of Nepal (Maoist) Web site and a Web site run by Iraqi militants who killed 12 Nepalis in September.

There were no government efforts to curtail academic freedom during the year.

The Maoists did not tolerate freedom of expression and tightly restricted the print and broadcast media under their control. On April 12, in Jumla District, Maoists beat to death a 75-year-old man for speaking out against Maoist torture and extortion. On August 4, Maoists in Dailekh District ordered two journalists to leave or face the death penalty. The Maoists had previously warned the reporters to stop writing articles on local businesses that had paid Maoist extortion demands. The journalists left the district after being told they would have their hands and legs cut off. On August 11, the Maoists executed Dekendra Raj Thapa, a reporter for the state-owned Radio Nepal in the mid-western district of Dailekh (see Sections 1.a. and 1.g.). Following Thapa's killing, the Maoists issued death threats against nine other journalists. The Maoists also banned journalists who had not registered with them from entering rural areas, threatening to cut off their hands if they disobeyed. On September 11, the Maoists subsequently issued a statement stating that they were committed to a free press; however, the statement was released the same day the Federation of Nepalese Journalists released a condemnation of the Maoists for Thapa's death. The Maoist restriction against unregistered journalists appeared to remain in force. On September 2, Maoists threatened to kill Bijaya Mishra, a journalist with Kantipur, for failing to report the arrest of a local Maoist in Siraha.

Maoist groups regularly extorted money from private schools and teachers and sometimes inflicted punishment on school officials. Threats and intimidation from Maoist-affiliated All Nepal National Independent Student Union (Revolutionary) (ANNISU-R) succeeded in closing down more than 200 private schools, primarily in areas most heavily affected by Maoist activities. Maoists used threats to force school closures throughout the country. For example, a school closure that ended in September affected more than 700,000 students. Maoists also used schools to recruit child soldiers under the slogan of, "One educational institution, one excellent militia." The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and the banning of the singing of the national anthem. In some areas, the Maoists demanded schools follow a calendar devoid of religious holidays (see Section 2.c.).

The Maoists have killed 71 teachers since the beginning of the insurgency, including 9 during the ceasefire, and have destroyed 26 school buildings. Teachers in Maoist-affected areas reported regular threats and extortion demands.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association; however, the Government restricted these rights on vague grounds, such as undermining the sovereignty and integrity of the State or disturbing law and order. The Government continued to require that organizers apply for permits for public rallies and demonstrations. Large public demonstrations were common. The Government suspended the right to assemble in Kathmandu Valley from April 8 through May 3. During the year, some protests turned violent, and police sometimes used baton charges to break up demonstrations. Throughout the year, local authorities in Kathmandu prevented Tibetan community public celebrations, including those to venerate the Dalai Lama (see Section 2.c.).

During the year, Maoists deprived citizens of the right to assembly. For example, Maoists regularly attacked peaceful protests organized by the PFN (Jana Morchha) Party against Maoist atrocities, and used torture and intimidation to prevent future protests (see Section 1.c.).

c. Freedom of Religion

The Constitution provides for freedom of religion and permits the practice of all religions; however, proselytizing was prohibited and punishable with fines or imprisonment, and members of minority religions occasionally complained of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. The Constitution describes the country as a Hindu Kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

In 2002, the Government ordered Muslim religious schools to register with the local District Administration Officers. The schools had to supply information about their funding sources in order to continue operation. Some Muslim leaders criticized the move as discriminatory. The registration requirement was not enforced during the year.

A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country. There were no incidents of punishment for conversion or proselytizing during the year. Nongovernmental groups or individuals were free to file charges of proselytizing against individuals or organizations.

In March, police in Kathmandu prohibited Tibetans celebrating the New Year from carrying pictures of the Dalai Lama around the Bhoudhanath stupa as part of religious ceremonies, a restriction that has been imposed since 2002. The Government restricted to private places (school grounds or inside monasteries) all of the local Tibetan celebrations (Tibetan New Year, the Dalai Lama's birthday, Democracy Day, and International Human Rights Day/Celebration of the Dalai Lama receiving the Nobel Peace Prize).

On September 1, after an Iraqi militant group in Iraq killed 12 citizen workers, mob violence in Kathmandu and other parts of the country targeted mosques and Muslim businesses, as well as manpower agencies and press houses. Seven persons were killed, four by mob violence because they were or were believed to be Muslim.

Government policy did not support religious extremism, although some political figures made public statements critical of Christian missionary activities.

The caste system strongly influenced society, although it was prohibited by the Constitution. Caste discrimination was widely practiced at Hindu temples.

On June 19, unconfirmed local media reported that Maoist insurgents banned worship in the Khadgadevi temple in Maidikot, Dhading District, employing threats and intimidation to enforce the ban.

There were regular reports of Maoists enforcing a "people's calendar" in schools that did not allow for religious holidays. According to one Christian organization, Maoists began demanding the use of church grounds for their indoctrination programs in eastern Nepal. When the demands were refused, churches were forced to close.

On September 12, Maoists exploded a bomb and forced the closure of St. Joseph's school in Pokhara. The school's 551 students mostly were from underprivileged ethnic communities.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. Unlike in previous years, the Government did not restrict access to the Chinese border. In January 2003, the Government lifted restrictions on women's travel to the Gulf States to work as domestic servants. The Government established restrictions on travel to work in Iraq, although these restrictions were not evenly enforced. The Constitution prohibits exile, and it was not used. The Government allowed citizens to emigrate and those abroad to return, and was not known to revoke citizenship for political reasons.

Internal displacement because of the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100,000 and 200,000 citizens may have been internally displaced. The variation existed because there were no internally displaced persons (IDP) camps; those displaced usually stayed with relatives and did not register with the Government or seek assistance. On August 8, the Government constituted a task force to look into the issue of IDPs, and the Government has since engaged with donors in a dialogue to develop policies to help those displaced.

The law does not provide for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and the Government generally cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylees. The UNHCR maintained an office in Kathmandu and a sub-office in Damak. Between 1959 and 1989, the Government accepted as residents approximately 20,000 Tibetan refugees,

most of whom still reside in the country. Since 1991, the Government has provided asylum to approximately 107,000 persons who claim Bhutanese citizenship. The great majority of these refugees lived in UNHCR-administered camps in the southeastern part of the country. Approximately 15,000 additional Bhutanese refugees resided outside the camps in either the country or India. The Government allowed UNHCR to provide services for other asylum seekers, such as individuals from Iraq and Sudan. The UNHCR also was permitted to visit the Nepal-China border eight times during the year.

The People's Republic of China and the Government tightened control of movement across the border in 1986, but neither side has consistently enforced those restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to the UNHCR, police conduct in this regard has improved since 1999, although border police sometimes extorted money from Tibetans in exchange for passage. There were regular but unconfirmed reports this year that Tibetan asylum seekers were sometimes handed back to Chinese authorities after crossing the border. Maoists regularly robbed Tibetan refugees traveling from border areas to Kathmandu on foot or by car.

The Government continued to characterize the May 2003 deportations of 18 Tibetan asylum seekers as an aberration that did not reflect official policy. In November 2003, the Government released all remaining Tibetan asylum seekers held in detention after a private benefactor paid their immigration fines. There were no Tibetan asylum seekers in jail at year's end.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs. The Government accepted the temporary refugee presence on humanitarian grounds. The camps were administered by UNHCR; the World Food Program (WFP) provided sustenance; and the Government made a contribution to the WFP earmarked for the refugees. In 2002, there were reports by refugee women and children that some of the Bhutanese refugee workers at the camps had committed sexual assaults. The Government responded by providing more police protection to the camp, and UNHCR conducted an investigation that resulted in the removal of certain local personnel and increased protection measures for refugee women and children (see Section 5). In September 2003, Maoists attacked a police post in one of the camps, killing one policeman. In response, the Government withdrew its permanent police presence from all seven camps.

The Government officially restricted refugee freedom of movement and work, but did not strictly enforce its policies. Bhutanese refugees were not allowed to leave the camps without permission, but it was consistently granted. Local authorities attempted to restrict some of the limited economic activity in the camps permitted by the central Government. Violence sometimes broke out between camp residents and the local population.

After a December 2003 briefing for Khudunabari Camp refugees by the Bhutanese Joint Verification Team resulted in disorder and throwing of stones, the planned repatriation to Bhutan of certain refugees from Khudunabari Camp and the verification of other camps were indefinitely delayed. The Government linked the repatriation of an initial pilot group of refugees to Bhutan to the resumption of the Nepal-Bhutan Joint Verification Team process. These processes had not resumed by the end of the year.

Section 3 Respect for Political Rights: The Right of Citizens

to Change Their Government

The Constitution provides citizens with the right to change their government peacefully; however, the ongoing insurgency prevented the holding of elections. Since the dismissal of the elected government in 2002, the King has appointed three interim governments, but parliament has not been reestablished. In the past, citizens exercised this right in practice through free and fair elections held on the basis of universal suffrage. Citizens, through their elected representatives, also have the right to amend the Constitution with the exception of certain basic principles that they may not change--sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy. Executive power is vested in the King and the Council of Ministers.

Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. The Prime Minister dissolved the Parliament in 2002, and the term of the Parliament subsequently expired. The ongoing insurgency prevented new elections. Since 2002, the King has appointed three interim governments, the most recent being the reinstatement of Sher Bahadur Deuba as Prime Minister on June 2. By year's end, no date had been set for national or local elections.

Under the Constitution, all citizens 18 and over may vote. The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Assembly, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house also may introduce legislation and send it to the lower house for consideration.

The King exercised certain powers with the advice and consent of the Council of Ministers and the Prime Minister. The King has exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution permits the King, acting on advice of the Council of Ministers, to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. In such an emergency, the King, as advised by the civilian government, may suspend without judicial review many basic freedoms, including the freedoms of expression, assembly, movement and residence, freedom from censorship, and freedom from preventive detention. However, he may not suspend

habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved after 3 months by a two-thirds majority of the lower house of the parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and for up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, or region, or that does not operate openly and democratically. In the 1999 election, there were sporadic incidents of violence that occurred mainly between supporters of rival political parties. Maoist efforts to disrupt the 1999 elections by intimidating voters and candidates had some effect. The elections generally were held throughout the country according to schedule. International observers considered the elections to be generally free and fair.

There were 125 registered political parties. Under the law, individuals may contest elections in the district in which they are on the election rolls, whether independently or with a political party. There is no dominant party. Most larger political parties have associated youth wings, trade unions, and social organizations.

The Constitution provides for an anticorruption authority, the Commission for the Investigation of the Abuse of Authority (CIAA), and it is used to investigate official acts of corruption. On July 22, the CIAA acted against former Deputy Prime Minister Chiranjivi Wagle, who was found guilty on corruption charges and sentenced to 2½ years in jail and a fine of approximately \$500,000 (37,000,000 Nrs). The CIAA also won a case before the Supreme Court on September 15 that forced several senior politicians, including a former Prime Minister, to testify before the anticorruption body.

The Constitution provides citizens with a right to information "on any matter of public importance," except in cases where secrecy is required by law. There were no known examples of this section of the Constitution being tested.

There are no specific laws that restrict women, indigenous people, or minorities from participating in the Government or in political parties. Tradition limits the roles of women and some castes in the political process. However, the Constitution requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. The 1999 elections resulted in an increase from 7 to 12 in the number of women in the 205-seat lower house and from 5 to 9 in the 60-seat upper house. There were three women in the Cabinet appointed by the King on July 3.

No specific laws prevent minorities from voting or restrict them from participating in the Government and political parties on the same basis as other citizens. There are no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally have held more power than others. Seven members of the 31-member Cabinet were from an ethnic minority community.

The Maoists have attempted to restrict the right of citizens to change their government. For example, on August 25, the Maoists threatened the Election Commissioners, demanding that they resign or face serious consequence because of an implied intention to hold national elections within 12 months.

On September 7, Maoists attacked a peaceful political rally of the People's Front Nepal (PFN) in Dullu, Dailekh District. Seven PFN activists were injured, including the party general secretary (see Sections 1.c. and 2.b.).

Section 4 Governmental Attitude Regarding International

and Nongovernmental Investigation of Alleged

Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes were cooperative and responsive to their views. There were no reports that the Government detained human rights activists suspected of Maoist affiliation during the year. However, there were complaints of intimidation being used against human rights NGOs and workers by both the Government and the Maoists. There were approximately 10 wholly independent domestic human rights NGOs, including the Human Rights Organization of Nepal (HURON), INSEC, the International Institute for Human Rights, Environment, and Development (INHURED), and the Human Rights and Peace Society (HURPES). The Nepal Law Society also monitored human rights abuses, and a number of NGOs focused on specific areas such as torture, child labor, women's rights, or ethnic minorities.

The insurgency has caused a number of NGOs to reduce their activities substantially. There were frequent credible claims that Maoists refused to allow human rights NGOs and journalists to enter certain western districts. In addition, Maoists have killed and abducted NGO workers. In mid-September, for example, Maoists abducted Kamal Gurung, a worker associated with a UNICEF child assistance program in Dadeldhura. There were credible reports during the year that insurgents stole emergency food supplies from NGO programs targeting vulnerable populations (see Section 1.g.).

The Government regularly granted visas to international NGO human rights monitors. Amnesty International conducted a

research mission to the country from January 23 to February 4. Human Rights Watch made several assessment and monitoring visits during the year. In December, a mission from the International Commission of Jurists visited the country. The Government cooperated with international nongovernmental organizations. The U.N. Office of the High Commissioner for Human Rights has a technical advisor posted in the country, and sent a Joint Technical Mission to the country from February 12 to 17. In December, the UN Working Group on Enforced and Involuntary Disappearances visited the country.

In 1997, the Government formed the NHRC, a government-appointed commission with a mandate to investigate human rights violations. The commission included members from all major political parties and operated independently; however, resource constraints and insufficient manpower restricted the number of cases the commission brought to court. During the year, the Government doubled the commission's budget. Once the NHRC completes an investigation and makes a recommendation, the Government has 3 months to respond. Since its establishment, the Commission has received 2,328 complaints of human rights violations, investigated 500 cases, and recommended compensation in 27 cases. Of the cases the NHRC identified, 1,340 involved the disappearance of detainees. Of these, the State subsequently released 124 persons, and the Maoists released 27. Illegal detention and arrest of acquitted persons were also investigated.

On March 26, the Government released a statement on "His Majesty's Commitment on the Implementation of Human Rights and International Humanitarian Law" and on July 15 released a National Human Rights Action Plan. Although these are relatively new public commitments, observers generally have been critical of the Government's implementation efforts.

In 2003, the Government established the Human Rights Promotion Center in the Office of the Prime Minister. The main purpose of the Center is to provide coordination between government ministries, the National Human Rights Commission, and NGOs on human rights issues. For example, the Center played a constructive role in coordinating a memorandum of understanding between the Government and the U.N. Office of the High Commissioner for Human Rights for assistance to the National Human Rights Commission.

Section 5 Discrimination, Societal Abuses, and Trafficking in

Persons

The Constitution specifies that the Government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a caste system operated in many areas of daily life and throughout the country. Societal discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

Women

Domestic violence against women was a serious problem that received limited public attention. There was a general unwillingness among citizens, and particularly among government authorities, to recognize violence against women as a problem. In a 1998 survey conducted by local NGO SAATHI, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or negligent in cases of violence against women and girls. SAATHI also reported that 82 percent of female respondents were victims of beatings and 66 percent were victims of assault. This unwillingness to recognize violence against women and girls as unacceptable in daily life was seen among police and politicians as well.

The police department has 18 women's cells with female officers who received special training in handling victims of domestic violence. The police also have sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes. Even though police may make an arrest, often neither the victim nor the Government pursued further prosecution.

At least 10 NGOs in Kathmandu worked on the problem of violence against women and on women's issues in general. SAATHI's assistance program includes a women's shelter and a suicide intervention center. The shelter provided housing, medical attention, counseling, and legal advocacy for the victims of violence.

Rape and incest also were problems, particularly in rural areas. Laws against rape provide for prison sentences of 6 to 10 years for the rape of a woman less than 14 years of age, and 3 to 5 years for the rape of a woman above the age of 14. The law prescribes imprisonment for 1 year or a fine for the rape of a prostitute. The law prohibits spousal rape. A survey conducted by SAATHI found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the perpetrator was convicted and jailed.

The dowry tradition was strong. The killing of brides because of defaults on or inadequacy of dowry payments was rare. More common was physical abuse of wives by the husband and the husband's family to obtain additional dowry, or to force the woman to leave to enable the man to remarry.

Folk beliefs about witchcraft generally involved rural elderly women, sometimes widows. Shamans or other local authority figures sometimes publicly beat and physically abused suspected witches as part of an exorcism ceremony.

On September 18 in Karthali Village in Sindhupalchowk, Sobhit Singh Raut killed 76-year-old Sumitra Khadka, accusing her of using witchcraft to kill his uncle. Raut was arrested on charges of murder.

In May 2003, Raheli Pariyar died in Rampur, Ramechhap District, as a result of an "exorcism" performed by local shamans.

According to INSEC, there were 67 victims of witchcraft-related violence in 2003. In May 2003, the NHRC asked the Government to develop a mechanism to prevent such abuses and to provide compensation to the abused.

Trafficking in women remained a serious problem throughout the country, and large numbers of women were forced to work against their will as prostitutes in other countries (see Section 5, Trafficking).

In September 2003, Human Rights Watch released a report titled "Trapped by Inequality: Bhutanese Refugee Women in Nepal," which examined the response of the UNHCR and the Government to rape, domestic violence, sexual and physical assault, and trafficking of girls and women from refugee camps. The report said that the country's system of refugee registration discriminated against women by distributing rations through male heads of households. Further, the report noted that 35 refugee women and girls were missing from the camps and might have been victims of trafficking.

Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement those provisions, even in many state industries. Women faced systematic discrimination, particularly in rural areas, where religious and cultural traditions, lack of education, and ignorance of the law remained severe impediments to the exercise of basic rights, such as the right to vote or to hold property in their own names. Inheritance laws were revised in 2002 so that unmarried, widowed, or divorced women can inherit parental property. On July 29, the Supreme Court struck down Section 12 (a) of the Provision of Inheritance by Default of the Civil Code, which states that upon marriage women must return any property inherited from their parents. Additionally, the Court ordered the creation of a government panel to study and form recommendations on discriminatory laws against women. The Citizenship Law discriminates against foreign spouses of female citizens, and denies citizenship to the children of female citizens married to foreign spouses, even if those children are born in the country. Many other discriminatory laws still remain. According to legal experts, there were more than 50 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for land tenancy and the division of family property.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. There also were a growing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

Children

The Government is committed to the welfare and education of children, but implementation of laws and programs has been uneven, in part due to violence resulting from the ongoing insurgency. Education is not compulsory. However, government policy was to provide free primary education for all children between the ages of 6 and 12 years. The quality of education provided was sorely inadequate, as many families could not afford school supplies and clothing, and schools do not exist in all areas. Schools charge fees for higher education. Approximately 60 percent of the children who worked also attended school. However, approximately 70 to 75 percent of boys who work go to school, compared with only 50 to 60 percent of the girls who work. Human rights groups reported that girls attend secondary schools at a rate half that of boys. In April 2003, the Department of Education issued a report finding that one-quarter of elementary school-aged girls remained deprived of basic education.

Basic health care was provided free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained.

Violence against children was rarely prosecuted, and abuse primarily manifested itself in trafficking of children. Forced prostitution and trafficking in young girls remained serious problems (see Section 5, Trafficking).

Societal attitudes view a female child as a commodity to be bartered off in marriage, or as a burden. Some persons considered marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. According to the Ministry of Health, girls' average age of marriage was 16 years of age. The age difference in marriage often was cited as one cause of domestic violence.

There were numerous credible reports that Maoists recruited teenagers to serve as porters, runners, cooks, and armed cadre. During the 2003 ceasefire, the Maoists reportedly abducted hundreds of rural teens and children, requiring them to attend training and indoctrination programs and join their ranks. In June, Maoists abducted more than 7,000 children for indoctrination or for service to the Maoist cadres.

There were reports of children held in jail or in custody as suspected Maoists. For example, in July, security forces arrested 14-

year-old Lila Pariyar of Sutwal-7 Village in Nawalparasi District on suspicion of being a Maoist. In September, Pariyar was discovered in a district jail, where she had been held for 2 months.

For more details on the problem of child labor, see Section 6.d.

Internal displacement due to the insurgency, including of children, continued to be a problem, with estimates of the number displaced ranging widely. The Government has identified 30 districts to focus programs on the education and health of conflict-affected children.

A number of effective NGOs work in the field of childrens' issues, including the International Labor Organization (ILO) (to eliminate the worst forms of child labor and promote child education), the Sahara Group, CWIN (Child Workers in Nepal Concerned Centre), CVICT (Centre for Victims of Torture), Ray of Hope, Terre des hommes (TdH), Maiti Nepal, ABC Nepal, the Forum for Women, Law and Development (FWLD), and several others.

Trafficking in Persons

The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and girls remained a serious problem. There is legislation to protect women from coercive trafficking, but enforcement of antitrafficking statutes remained sporadic. The Human Trafficking Control Act prohibits selling persons in the country or abroad and provides for penalties of up to 20 years' imprisonment for traffickers. However, this legislation does not criminalize the separation of minors from their legal guardians with the intent of trafficking. As a result, no crime is considered to have occurred until the victim and perpetrators are outside the jurisdiction. There were many social and legal obstacles to successful prosecution, and convictions were rare. In June 2003, the Special Court sentenced to 75 years of imprisonment the leader of a gang involved in selling nearly 100 girls to brothels in India. Six of his accomplices received lesser sentences ranging from 36 months' to 12 years' imprisonment. Border guards commonly accepted bribes to allow contraband and trafficked girls in or out of the country.

The country was a source country for trafficking. Young women were by far the most common targets; trafficking of boys rarely was reported, but girls as young as 9 years of age were trafficked. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, or other purposes. Most women and girls trafficked from the country went to India. According to the 2003-04 annual report of the Attorney General's Office, 133 trafficking cases were filed in district attorneys' offices across the country. At year's end, of the 133 cases, 32 resulted in full or partial convictions, 18 in acquittal, and 83 remained pending.

Local NGOs combating trafficking estimated that from 5,000 to 12,000 women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent, and NGOs were seeking better estimates. Citizens reportedly also were trafficked to Hong Kong, Saudi Arabia, and other countries in the Middle East. A ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the Gulf was lifted in January 2003 for the organized sector. Women who have proof of external employment with an organization of 10 or more employees may travel to the Gulf.

Hundreds of girls and women returned voluntarily or were rescued and repatriated to the country annually after having worked as commercial sex workers in India. Most were destitute and, according to some estimates, 50 percent were HIV-positive when they returned.

A 2001 study by the ILO International Program on the Elimination of Child Labor found that 30 percent of sex workers in Kathmandu were below 18 years of age. Another study by a foreign labor department states that 5,000 to 7,000 sex workers were between the ages of 10 and 18 years.

Government officials suspected that organized crime groups and marriage brokers were the primary perpetrators of trafficking in the country. The traffickers usually were from the country, but had links to brothels in India. In some cases, parents or relatives sold women and young girls into sexual slavery. NGOs' unverified estimates were that approximately 50 percent of the victims were lured to India with the promise of good jobs and marriage, 40 percent of the victims were sold by a family member, and 10 percent were kidnapped. NGOs have found that once prevention programs were initiated in a district, the traffickers moved to other areas. Youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

While the Government lacked both the resources and institutional capability to address effectively its trafficking problem, the Government has established a National Task Force at the Ministry of Women, Children and Social Welfare (MOWCSW) with personnel assigned to coordinate the response. There were programs in place to train police, and the MOWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. While the Government promulgated a National Plan of Action to combat trafficking in August 2003, its implementation was haphazard.

The Government provided limited funding to NGOs to provide assistance to victims with rehabilitation, medical care, and legal services. The Ministry of Labor and Social Welfare sponsored job and skill training programs in several poor districts known for sending commercial sex workers to India. The Government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The Government, together with NGOs and international organizations, has implemented local, regional, and national public awareness campaigns about trafficking in persons. However, the Government failed to budget for adequate police training and resources, and the courts were overburdened. Government welfare agencies generally were incapable of delivering effective public outreach programs or assistance to trafficking victims without the help of NGOs.

Cultural attitudes toward returned victims of trafficking were often negative, and the Government response sometimes reflected that bias. There were more than 50 NGOs combating trafficking, several of which had rehabilitation and skills training programs for trafficking victims. Two representative NGOs were members of the MOWCSW's National Task Force Against Trafficking. With the Government's endorsement, many NGOs have public information and outreach campaigns in rural areas. These groups commonly used leaflets, comic books, films, speaker programs, and skits to convey anti-trafficking messages and education. Some organizations involved in the rehabilitation of trafficking victims stated that their members had been threatened and that their offices had been vandalized because of their activities.

The International Agency Coordinating Group, comprised of NGOs, bilateral donor agencies, and government agencies, met regularly to share information, plan common approaches, and avoid duplication of work.

Persons with Disabilities

There was discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services. The Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings, transportation, employment, education, and other state services, but these provisions generally were not enforced. Despite government funding for special education programs, the Government did not implement effectively or enforce laws regarding persons with disabilities. The MOWCSW is responsible for the protection of those with disabilities. A number of NGOs working with persons with disabilities received significant funding from the Government, but persons with physical or mental disabilities relied almost exclusively on family members to assist them.

Persons with disabilities faced widespread societal discrimination. Families often were stigmatized by and ashamed of family members with disabilities. Economic integration was further hampered by the general view that persons with disabilities were unproductive. Due to the inadequacy of facilities, the authorities sometimes placed prisoners with mental disabilities in jails under inhumane conditions. A 2001 report authored jointly by UNICEF and the National Planning Commission estimated that there were approximately 400,000 persons with disabilities in the country.

National/Racial/Ethnic Minorities

The Constitution provides that each community shall have the right "to preserve and promote its language, script, and culture," and that each community has the right to operate schools at the primary level in its native language. In practice, the Government generally upheld these provisions.

There are more than 75 ethnic groups that speak 50 different languages. In remote areas, school lessons and radio broadcasts often were in the local language. In urban areas, education was almost exclusively offered in Nepali or English.

Discrimination against lower castes was especially common in the rural areas in the western part of the country, even though the Government outlawed the public shunning of Dalits and made an effort to protect the rights of the disadvantaged castes. For example, on September 6 in Bhagawatpur-9 Village in Rajbiraj, villagers imposed a ban on 35 Chamar Dalit families from using community services and facilities after the Dalits demanded the right not to be forced to handle dead carcasses. Many Dalits also lost their jobs. The police and district authorities had not addressed the incident at year's end.

Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu Valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes continued to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources.

Caste-based discrimination, including barring access to temples, is illegal. However, Dalits were barred from entering temples on occasion. For example, in December, Dalits were denied entry into a Hindu temple in Bharatpur. Progress in reducing discrimination was more successful in urban areas.

Other Societal Abuses and Discrimination

The Constitution does not recognize sexual minorities, but the country does not have any laws that specifically criminalize or proscribe sanctions against sexual minorities. Government authorities, especially police, sometimes harassed and abused homosexuals. On August 9, 39 homosexual rights advocates were arrested and detained for 11 days under the Public Offenses Act. They were subsequently released on bail. According to the Blue Diamond Society (BDS), an NGO that works to support the well-being of the country's sexual minorities, after a 2003 meeting between BDS and police, the police Inspector General issued a letter to all police stations expressing concern at the level of police violence against homosexuals.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the freedom to establish and join unions and associations, and these rights were protected in practice. It permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties.

Union participation in the formal sector accounted for approximately 10 to 12 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the Government has not yet fully implemented these acts. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers.

The Government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

In August and early September, the Maoist-affiliated trade union forced the closure of 12 companies for a month, and almost 50 additional companies for about a week, threatening to damage facilities and to physically harm workers and their families if they returned to work.

b. The Right to Organize and Bargain Collectively

The Labor Act provides for collective bargaining, although the organizational structures to implement the Act's provisions have not been established. The Government allowed unions to operate freely and without interference. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector. However, in general, labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking and inexperience.

The law provides the right to strike except by employees in essential services, and workers exercised this right in practice. The law empowers the Government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affected the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Sections 5 and 6.d.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Enforcement of the Kamaiya Prohibition Act by the Government was uneven, and social integration of the Kamaiyas was difficult. According to the ILO, 12,019 Kamaiyas have received land, 7,149 families each have received approximately \$230 (17,020 Nrs) for building homes, and about 6,000 have received timber to build houses. The Government has set up temporary camps for approximately 14,000 Kamaiyas still awaiting settlement. The food-for-work program was terminated in November. A 2001 ILO Rapid Assessment estimated that 17,000 child laborers were working as bonded laborers in the remnants of the Kamaiya system.

d. Prohibition of Child Labor and Minimum Age for Employment

Child labor is a significant problem, particularly in the large informal sector, which includes such businesses as portering, rag picking, and rock breaking. The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek (6 hours a day and 6 days a week). The Child Labor Act applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines, but not to informal sectors or subsistence agriculture. The law establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture and mandated acceptable working conditions for children. Children under the age of 14 years are prohibited from working. Employers must maintain records of all 14-to 16-year-old laborers. The Child Labor Act also established specific penalties for those who unlawfully employ children. However, the necessary implementing regulations have not been passed.

Resources devoted to enforcement were limited, and children worked in many sectors of the economy. NGOs estimated that 2.6 million children--most of them girls--were economically active. Of that number, 1.7 million children worked full time. The agricultural sector accounted for most child laborers--an estimated 95 percent. Roughly 60 percent of children who work also attend school. Others are economically active in a few small-scale and cottage industries.

There were credible reports that the Maoists forcibly recruit children, including girls, as soldiers, human shields, runners, and messengers (see Section 5).

The Ministry of Labor's enforcement record was mixed. In 2003, according to the Ministry, its 14 inspectors conducted approximately 500 inspections (out of 20,000 registered companies) to ensure that no child labor was present. The Ministry reported that no children under the age of 14 were found working in the factories inspected. The Government also conducted public awareness programs to raise public sensitivity to the problem of child labor.

The private sector has made its own efforts to eradicate child labor, especially in the carpet industry. In 1999, the Carpet Manufacturers Association pledged publicly to end child labor in the industry by 2005. The Rugmark Foundation certified that carpets were made without child labor. There are 517 member-companies (an estimated 67 percent of the industry) in Rugmark. Rugmark's four inspectors conducted inspections, issued warnings, and if repeated violations occurred, disassociated companies from the program. As a result of this initiative, and of consumer pressure, Rugmark estimated that children constituted only 2 percent of the work force in the export-oriented carpet industry. However, children's rights activists stated that children remained a part of the work force in the smaller factories and family weaving units. Rugmark conducted 29,562 inspections at factories, identifying and removing 613 children from factories. Rugmark reunited 465 children with their families, and another 187 were in Rugmark rehabilitation centers. Rugmark revoked two licenses from carpet factories where children were found employed.

e. Acceptable Conditions of Work

In April 2003, the Government raised the minimum monthly wage for unskilled labor to \$25 (1894 Nrs). The law also defined monthly minimum wages for semi-skilled labor at approximately \$26 (1944 Nrs), skilled labor at \$28 (2,054 Nrs), and highly skilled labor at \$30 (2,244 Nrs). The minimum wage for children ages 14 to 16 was set at \$21 (1,558 Nrs). Additional allowances for food and other benefits total \$7 (500 Nrs) per month for adult labor, and \$5 (360 Nrs) per month for children aged 14-16. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The Labor Act calls for a 48-hour workweek, with 1 day off per week, and limits overtime to 20 hours per week. None of these minimum wages were sufficient to provide a decent standard of living for a worker and family.

The Government also set health and safety standards, and other benefits such as a provident fund and maternity benefits were established in the Labor Act. Implementation of the Labor Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.